IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 315 of 1998
with
SPECIAL CIVIL APPLICATION No. 3648 of 1998

For Approval and Signature:

HON'BLE MR JUSTICE KS JHAVERI

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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GHANSHYAMSINH TAKHATSINH & 3 - Petitioner(s)

Versus

STATE OF GUJARAT & 2 - Respondent(s)

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Appearance :
MRS DT SHAH for Petitioner No(s).: 1,2,3,4.
MS HANSA PUNANI A.G.P. for Respondent No(s).: 1, 2,3.
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CORAM : HON'BLE MR JUSTICE KS JHAVERI
Date : 08/08/2005

ORAL JUDGMENT

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1. The petitioners by way of this petition has prayed for the following reliefs :-

(A) To issue writ or writs in the nature

of mandamus and/or prohibition and/or any other writ or writs or orders or directions.

(B) To direct the respondents no. 1 and 2 to pay Rs.52,700=00 to each petitioner as per order annexure-A.

(C) To direct the respondent no. 3 to execute and/or to implement recovery certificate annexure-B against respondents no. 1 and 2 with interest till its realization.

(D) .....

(E) .....

2. The short facts of the case are that the petitioners under Section 33 (C) (2) of the Industrial Disputes Act, 1947 had preferred Recovery Application No. 72/93 before the Labour Court, Surendranagar claiming the benefits of the Government Circular dated 17th October, 1988. The Labour Court after hearing the Recovery Application ordered that the amount stated in the application be paid to the petitioners. Though the said directions are issued, the respondents have not paid the petitioners the amount in question. Hence, this petition.

3. I have heard the learned counsel for the parties and have perused the materials placed on record. In view of the Full Bench decision of this Court in the case of Gujarat Forest Producers, Gatherers & Forest Workers

Union v. State of Gujarat reported in 2004 (2) G.L.R. p. 1488 the Circular dated 17th October, 1988 is not applicable in case of forest department and, therefore, the impugned order is required to be quashed and set aside.

In view of the aforesaid decision, the reliefs claimed by the petitioners cannot be granted and the order passed by the Labour Court, Surendranagar in Recovery Application No. 72/93 is quashed and set aside. Accordingly the petition stands disposed of. Rule is discharged with no order as to costs.

[K.S. JHAVERI, J.]

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